

# Supplemental Memorandum

**To: STATE BOARD MEMBERS**

**Date: 4/28/03**

**From: Judy Pinegar**

**Re: ITEM #W-13**

**Subject STATE MEAL MANDATE DURING THE SUMMER SCHOOL SESSION**

[Attached](#) is the supplemental recommendation for Dunsmuir Joint Union High School District.

**GENERAL WAIVER COVER SHEET**  
**CALIFORNIA STATE BOARD OF EDUCATION**  
**MAY 2003 AGENDA**  
**Item No. W-13**

<b>TITLE:</b> Request by <b>Dunsmuir Joint Union High School District</b> to waive <i>Education Code</i> Section 49550, the State Meal Mandate and <i>Education Code</i> Section 49548, restricted criteria for the issuance of summer school meal waivers, during the summer school this year.	<input checked="" type="checkbox"/> <b>ACTION</b> <input type="checkbox"/> <b>INFORMATION</b> <input type="checkbox"/> <b>PUBLIC HEARING</b> <input type="checkbox"/> <b>CONSENT</b>
<b>CDSIS:</b> 26-4-2003	

**RECOMMENDATION:**

The Department recommends:

☐ Approval

☒ Denial

The General Waiver authority in Education Code (EC) Sections 33050 and 33051 cannot be used to waive a section of the EC that constitutes a Specific Waiver authority.

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**Summary of Previous State Board of Education Discussion and Action:**

On or about February 18, 2003, Dunsmuir Joint Unified School District (JUSD) filed a request under EC Section 49548, to obtain a waiver from serving meals during the summer school session. A school district must meet two of four waiver criteria. Dunsmuir JUSD met only one of the four criteria. The Nutrition Services Division recommended denial of the waiver based on not meeting the minimum restricted requirements. Dunsmuir JUSD planned to discuss this issue at the State Board Meeting in April 2003. However, prior to the meeting they withdrew their Specific Waiver request, and indicated they would instead do a General Waiver request.

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**Summary of Key Issue(s):**

Dunsmuir JUSD subsequently filed a request that the State Board waive EC Sections 49550 and 49548 pursuant to the Board's General Waiver authority in EC Sections 33050 and 33051. Although at least six needy children will be attending the summer school session, the school district is requesting a waiver from serving meals.

Dunsmuir JUSD has requested to the State Board of Education a General Waiver approval of Education Code Sections:

- 49550. Free or Reduced Price Meals**, which requires school districts to provide one nutritionally adequate free or reduced-price meal during each school day, and
- 49548 Summer school sessions; restricted criteria for waiver**, which restricts the criteria for the issuances of waivers from the requirements of waiver Section 49550 to feed children during a summer school session.

EC Section 49548 provides specific criteria that must be met to waive EC Section 49550. It has been a long-standing administrative interpretation of the Department that within the Education Code, Specific Waiver authority takes precedent over General Waiver authority. This position is consistent with the principle of statutory construction, that a specific statutory provision takes priority over a general statutory provision covering the same subject.

The grounds for denial appearing in EC Section 33051(a) are not applicable.

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Bargaining unit(s) consulted on:

Position of bargaining unit (choose only one):

☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative: **James Rinne and Danelle Cascarina**

Public hearing identified by (choose one or more):

☒ posting in a newspaper ☐ posting at each school ☒ other

(specify) posted at the Siskiyou County Office of Education, the Library, and two elementary schools.

Public hearing held on: **April 9, 2003**

Local board approval date: **February 12, 2003**

Advisory committee(s) consulted:

Objections raised (choose one): ☒ None ☐ Objections are attached on separate sheet

Date consulted: **March 6, 2003**

Effective dates of request: **June 6, 2003 through July 28, 2003**

**Fiscal Analysis (as appropriate):** The fiscal impact at the state level is non-existent. Denial of the waiver will not have a significant impact on Proposition 98 funds. Based upon information submitted by Dunsmuir, the school district will incur a financial loss of \$ 4,451 by providing meals during their summer school session.

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**Background Information:**

Documentation is attached to the original waiver, **Item W-13.**